

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDRE MAYARD,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

16-CR-609 (LAP)

25-CV-4194 (LAP)

ORDER

LORETTA A. PRESKA, United States District Judge:

Movant Andre Mayard brings this pro se motion under 28 U.S.C. § 2255 challenging his judgment of conviction in United States v. Mayard, No. 16-CR-609 (S.D.N.Y. Nov. 28, 2018).

Mayard previously filed in this Court a letter requesting an extension of time to file a Section 2255 motion. That letter was opened as a Section 2255 motion as a new civil action under docket number 22-CV-2553. By order dated April 1, 2022, the Court construed the letter as a substantive Section 2255 motion and granted Mayard 60 days' leave to file an amended motion.

(See 16-CR-609, dkt no. 59.) The Court's April 1, 2022 Order, however, was not mailed to Mayard until April 10, 2025.

On May 15, 2025, the Court received a submission from Mayard that is labeled as an amended Section 2255 motion and bears docket number 22-CV-2553. The Clerk of Court opened that motion as a new civil action under docket number 25-CV-4194. Because Mayard labeled his new submission as an amended Section

2255 motion, and because he only recently received a copy of the Court's April 1, 2022 order, the Court concludes that Mayard intended the new submission as an amended Section 2255 in the action with docket number 22-CV-2553, rather than a new Section 2255 motion.

The Court therefore directs the Clerk of Court to (1) reopen the action under No. 22-CV-2553; (2) docket the Section 2255 motion filed in No. 25-CV-4194 as an amended Section 2255 motion in the action under No. 22-CV-2553; (3) close the action pending under No. 25-CV-4194 and terminate all motions; and (4) change the title of the submission in the criminal action (dkt. no. 66 in No. 16-CR-609) to "Amended Motion to Vacate under 28 U.S.C. § 2255."

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: May 22, 2025
New York, New York



LORETTA A. PRESKA
United States District Judge